

AUTOMOTIVE
SECTION

OWNER'S RESPONSIBILITY IN ACCIDENTS

AUTOMOTIVE
SECTIONLEGAL POINTS FOR
AUTOMOBILE OWNER

BY OUR LEGAL CORRESPONDENT.

The development of the law relating to automobiles has been as phenomenal as the development of the automobile industry itself. Text books, statutes and court decisions that owe their existence to this comparatively new field of industry, and deal exclusively with it, represent the equivalent of many hundreds of volumes and actually amount to many hundreds of thousands of pages of printed material.

That practically everybody is very deeply affected by this new and ever growing field of law is a proposition that probably looks like a journalistic exaggeration (if there is such a euphemistic modification of the truth), but as will be seen from the series of articles which will appear in Saturday's Automotive Section, "The Times" each week, and of which this is the fourteenth, the statement made will bear the severest test.

In this series it is proposed to get the "meat" out of the law relating to automobiles and to present it in such a form that it will interest, instruct and help. The series is the greatest variety of situations which arise from time to time out of the ownership, use, sale, purchase, manufacture, repair or storage of automobiles, or from the conditions due to the general use of automobiles in the varied and complicated of our daily existence.

In previous articles attention was called to the rule of law that the

owner of a car is not legally responsible for an accident which occurs while his chauffeur is using the car without his employer's knowledge and against his instructions. An attempt was made in a recent New York decision to get away from this rule and to hold a motorist liable under the circumstances above indicated upon proof that in the particular case in question the chauffeur had been employed only the day before the accident, representing himself to the owner of the car as a competent and duly licensed chauffeur, when the fact was that he was not an experienced driver and had no license.

The argument was that the owner could have discovered the facts without difficulty had he made inquiry, and that the law should hold him responsible for an accident due to his employment of unqualified help.

This argument did not appeal to the court, however, which held that an employer is entitled to rely upon the representations of a prospective employee until he learns from experience or otherwise that they are untrue.

In another New York case just decided it is held that a verdict against the owner of a truck is not justified where the only evidence of alleged negligence consists of the violation of an ordinance requiring trucks to be driven near the curb. There must be a direct connection between an accident and a violation of law at the time of its occurrence to render the owner liable. The same case recognizes that the violation of speed

regulations is always evidence of negligence which the jury may take into consideration as indicating responsibility for an accident.

The garage company and not the person hiring the car is held to be responsible for an accident under the following circumstances: The company rents the car under a written agreement requiring it to furnish a chauffeur, who is to drive the car wherever he wants to go and to pay all expenses connected with the maintenance and operation of the car. It further undertook to provide insurance protection for the hiree against liability for "negligent accident." All directions in the use of the car were given by the hiree, who also furnished meals to the chauffeur when occasion required, though this was not stipulated in the contract.

An illustration of the rule that neither party to an accident is entitled to damages from the other if both were guilty of negligence, though in different degrees, is furnished by a recent Ohio decision. In this case it appears that a motor truck approached a street car crossing at a greatly excessive speed, although the view of the trucks was obstructed by trees, and that a street car was also approaching the crossing at an excessive rate of speed. A collision resulted. It is clear that the accident could not have happened if either of the parties had been free from fault, hence neither could recover the damages sustained.

Mother-in-law had a hand in the making of a recent decision, however, the perennial question of whether under the peculiar facts of particular cases the owner of a car may be held responsible for an accident when the car is being driven by a member of his family. It appears in a recent decision of the court of appeals of New York that the mother-in-law of the owner, being a guest at the latter's home, borrowed the car of his husband to drive to her sister's home, this other being the host's mother-in-law. As it is to be expected from such a combination of facts, an accident occurred during the trip, and the injured person attempted to enforce a claim for damages against the "whore" the court held that the owner was not liable, he not having consented to the use of the car by the mother-in-law.

In a number of recent decisions it has been held that liability cannot be fixed upon the owner upon the mere proof that his car caused the accident; in addition to ownership it must be proved, according to these decisions, that at the time of the accident the car was being driven by the owner, or by some one who had authority, expressed or implied, to drive it as his agent or on his account. Otherwise, these decisions suggest, owners would be frequently mulcted in damages in cases where their chauffeurs surreptitiously use their employers' cars whenever opportunity affords.

A decision of the supreme court of Michigan holds that the above rule does not apply—or at least that the inferences from the facts supply the necessary additional proof—where it is shown that the accident occurred during the usual business hours, that the driver was in the owner's employ at the time of the accident, and that the car was used by the owner for his general business purposes at about the time the accident occurred.

In fixing the damages to which a motorist is entitled where his car has been put out of commission through the negligence of another, no allowance is made for the use of another car owned by him, or for the cost of storage of the damaged car pending its repair or disposition, or for the wages paid the chauffeur while the car is out of use. Nor is any allowance made for the loss of pleasure, comfort or convenience entailed while the car is being repaired.

A current law journal points out that one of the titles of a recent volume of law is: "Attorney's Fees—Automobile." It is suggested that some lay motorist might be able to deal with that phase of the subject with first-hand knowledge of the underlying facts.

If you are in doubt about any legal points relating to automobiles, write to L. J. Faulkner, Automotive Editor of The Washington Times.

Help Make Washington Safer.

Brute Power Mastered By a Child



The Master Five-Ton Truck Dump, Now Being Exhibited in the Streets of Washington. The Dump Can Be Operated by a Ten-Year-Old Child.

DELAWARE ROADS
STATE ENTERPRISE

"Political Macadam" Gives Way to Practical Concrete Surfaces.

What it means for a State to take hold of its road problem from a State point of view is set forth in the Story of Delaware Highways, just published by the Delaware State Program.

The Delaware State Program is a cooperative agency representing five official State departments, one of which is the highway department.

About five years ago there was not one mile of really permanent road, in the modern meaning of the term, in the State of Delaware. Today there is under construction or immediately planned, a well conceived plan of primary north to south State roads, supplemented by an extensive system of "State aid" roads, running east to west and connecting with the State system. True, the roads are not completed, and not all of them are yet under contract. The State primary system, as outlined, covers 270 miles of which seventy-three miles are now complete.

Like most of the other States of the country in their modern road-building programs, Delaware is a convert to the concrete road. There are many arguments for the concrete road, but the outstanding one is the small cost of maintenance. The experience of Wayne county, Michigan, a pioneer in trying out the concrete road, seems to prove this, to say nothing of the later experience of other States and communities. In the Delaware Highway pamphlet it is set forth that the cost of maintaining one mile of concrete per year does not exceed an average of \$100 per mile—a vivid contrast to the sums ranging up to \$1,500 or beyond, per mile, which are still being expended in many communities for road maintenance.

Road building as a State enterprise is still not very fully developed in this country. The Delaware State highway department was not established until 1917. In Delaware, as in other States, the work that normally would have been done during the past few years was greatly held up by the war-time cost of labor and materials, and by the rulings of the War Industries Board. In view of these things, the Delaware story of State roads is a story of distinct accomplishment.

"State Aid" Important Feature.

One very interesting point brought out in the pamphlet is the growth of the "State aid" idea. Inevitably, when a State takes hold of its roads as a State matter, it comes at once to

recognize the need of an effective "State aid" system. Up to the present time, Delaware has been appropriating as "State aid" for road building only \$30,000, \$10,000 for each county. This year the State Highway Department is making available for "State aid" road work \$750,000—\$250,000 for each county.

Another interesting point that comes out in the Delaware pamphlet is the increase in State funds for road building through automobile receipts. In Delaware State road funds come from two sources—income tax revenue over \$250,000 (which is very small) and automobile receipts, including fees for registration of vehicles and fees for the licenses of drivers. It is a notable fact that the automobile receipts for nine months of the year 1919 were almost eight times what they were for the entire year 1914, and more than double what they were in 1917. The volume of automobile traffic works both ways! It makes modern permanent roads more than ever necessary, but it also provides a most inconsiderable source of revenue with which to build and to maintain them.

Politics Poor Paving.

Of especial interest to engineers and road builders everywhere will be that section of the Delaware Highway pamphlet which deals with the organization of the department and the procedure and methods of work. The time is past when a State can perpetrate with safety the "political macadam" road of old times. Modern roads are expensive, and the citizens of the State are going to notice it if they do not last. Among the policies noted in the Delaware pamphlet for securing good roads are: the engaging of reliable contractors, no matter whether they live inside the State or out; State responsibility for testing the materials used in the roads; the State's own laboratory, and good inspection.

The chief engineer of the Delaware highway system is Charles M. Upham. Before he became head of the State highway system he constructed the Du Pont Boulevard in southern Delaware.

PREDICTS 1920 WILL BE
GREATEST FOR MOTORS

"I predict that the year 1920 will see more uses of the automobile and motor truck than 1919," says J. E. Lynch, director of sales of the Kissel Motor Car Company.

"It has become an interwoven in our activities, in our social, industrial, business, governmental and professional activities, that people have come to look upon it as a matter of course and a necessity they cannot get along without."

"Hotels have started to put up their own garages and parking places—the same is true of department stores and apartment houses. Even manufacturers and industries have their parking places for the automobiles of their employees."

"Farmers are erecting garages just as attractive as those in the city, and in every small community the garages are the most up-to-date and imposing buildings in town. No matter where the motorist drives he has up-to-date service and a source of supplies just as efficient and up-to-date as if he was at home."

"The motor truck has become the business man's freight line, making him less dependent on the railroads for receiving and shipping goods and supplies. This is particularly true of the short line haul, as the motor truck has been proven the most economical labor and time saver in hauling distances of 100 to 500 miles."

"The mammoth good roads program laid out by each State insures that within a couple of years America will be the home of good roads, enabling automobile and motor trucks to drive across the continent without getting off of improved highways and byways."

"Take it altogether, 1920 will be a record motor year from every standpoint and in all walks of life. It has become one of the leading industries of the country, and takes front rank in its accomplishment in the matter of increased production, economy, and efficiency."

HUGE FUNDS GIVEN
FOR NEW HIGHWAYS

Construction, However, Presents Problem Through Limitations.

Funds available for the construction of hard surface roads in the United States in 1920 are more than three times greater than in any previous year. The United States Department of Agriculture estimates the amount at \$633,000,000, and many leading authorities believe the appropriations will reach a final total of \$1,000,000,000. The previous maximum yearly expenditure has never exceeded \$200,000,000.

This recognition of the need for adequate highways by the national, State and county legislatures is regarded by leaders in the motor truck industry as indicative of the acceptance of highway transportation on a par with the railroads.

Problem Not Solved.

"It does not mean, however, that the good roads problem has been solved," said R. E. Fulton, vice president of the International Motor Company, manufacturers of Mack trucks, in a recent interview. "The problem merely assumes a different aspect."

"Although the American people are demanding a comprehensive system of highways, and are willing to pay the price, the expenditure of this huge appropriation is dependent upon three things: First, the supply of highway construction materials; second, the ability of the railroads to furnish enough cars to transport this material; and third, the ability of engineers and contractors, with the required labor, to handle the construction. These three factors, under present conditions, are direct limitations on the anticipated highway program."

A shortage of road materials will be sure to develop as the 1920 construction is put under way. It is estimated that the average cost of our roads for next year will be about \$20,000 a mile.

Allowing but 400 tons of materials per mile, road construction will need not less than 120,000,000 tons of materials, a figure far above the supply now available. The railroads at present are seriously overburdened with freight and are unable to handle even the present amount of traffic. The demands upon engineers, contractors and labor already exceed their capacity. With the amount of money willing to be spent more than tripled and with facilities for spending it less adequate than formerly, it is very doubtful that the program can be carried out unless measures are adopted to overcome these limitations.

Will Use Trucks.

"In this connection, it is certain that the motor truck will be called on to act as its own benefactor by hauling the material from the source of supply to the construction area, and by taking over short haul shipments from the railroads, thereby releasing cars for transporting the material over longer distances."

"Highway transportation promoters and good roads enthusiasts have won their point as far as public recognition is concerned, and it only remains for construction facilities to be improved before this country will have a system of highways that will offer unlimited development for motor truck transportation."

FORD RUNS 16 YEARS.

The dealer for the Ford car in Columbus has just accepted in trade, Ford car No. 604, sold sixteen years ago and in almost daily service until it was traded. The dealer paid \$50 for it—Motor Life.

Auto Drivers Watch Out For the Unexpected.

SECURITY AUTO SUPPLY
CO. INCREASES CAPITAL

The annual meeting of the stockholders of the Security Auto Supply Co., Inc., was held at the office of the company, Room 837, Woodward building, January 16.

The following officers were elected: President, William A. Craig; vice president, Raymond C. Briggs; secretary and treasurer, W. W. Maloney.

After hearing the report of the stockholders, the stockholders voted a 10 per cent dividend and also voted to increase the capital stock to \$32,000. The corporation handled over \$92,000 as its first year's business.

INSURANCE IS THE
AUTOISTS' PROTECTION

No man or woman who owns an automobile is immune from mishap and accident. That you never have had one is no assurance that you won't have one and then there is the ever present possibility of fire and theft.

All this is a source of worry—that can be entirely eliminated if you will carry the right kind of insurance. For instance we will write a policy for you that will take care of all your troubles in this particular or such features as you may select. Go the limit—that's the judicious thing to do—and you'll find the premium anything but expensive.

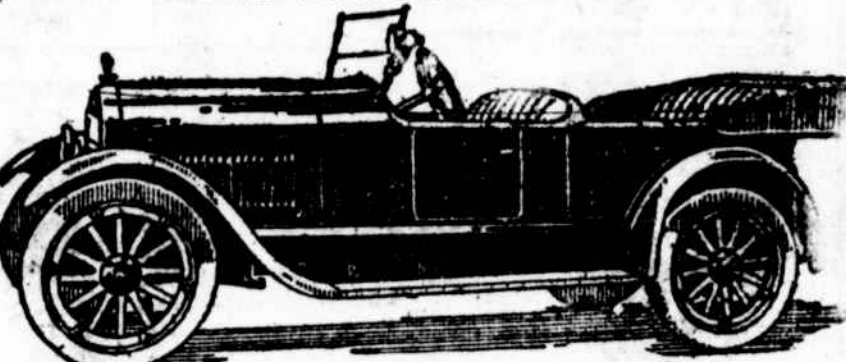
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